

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

EDWARD KIMMIE,

Plaintiff,

vs.

**Case No.: 2:18-cv-334
JUDGE GEORGE C. SMITH
Magistrate Judge Vascura**

JUDGE CHRISTOPHER BOYKO, et al.,

Defendants.

ORDER

On April 23, 2018, the United States Magistrate Judge issued an *Order and Report and Recommendation* recommending that Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* be granted and after conducting an initial screen, that Plaintiff's claim against Defendant Judge Christopher Boyko be dismissed. Additionally, Plaintiff was given until May 23, 2018 to correct the deficiencies in his complaint, specifically identifying the events that gave rise to his claims and the specific involvement of Defendants Gary Croft, J. Moore, Annette Chambers, Mrs. Champney, Dr. Kline, Lt. Jamison, and Mrs. Mahlam. The Magistrate Judge cautioned that failure to do so could result in dismissal of the claims against the foregoing Defendants. (*See Order and Report and Recommendation*, Doc. 4).

The parties were advised of their right to object to the *Order and Report and Recommendation*. This matter is now before the Court on Plaintiff's Objections to the *Order and Report and Recommendation* (*See* Doc. 5) and his Amended Complaint (Doc. 6). The Court will consider the matter *de novo*. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

In his objections, Plaintiff is seeking judgment in 1:09-cv-00628 and preserving his right to appeal. He also generally asserts that Magistrate Judge Vascura completely ignores the facts he presented. However, Plaintiff has failed to assert how the Magistrate Judge's conclusions were incorrect. He merely argues that judgment should be entered in his favor. The Court has carefully reviewed this matter and agrees with the findings of the Magistrate Judge.

Additionally, Plaintiff has submitted an Amended Complaint (Doc. 6) as instructed by the Magistrate Judge to attempt to cure the deficiencies in his original complaint. However, the Amended Complaint does not cure the deficiencies outlined in the *Order and Report and Recommendation*, but instead states entirely new and distinct claims against new defendants than those raised in the original complaint.

The Court agrees with the Magistrate Judge's findings that Plaintiff's claims against Judge Boyko should be dismissed because Judge Boyko is entitled to absolute judicial immunity. Further, Plaintiff's claims against the remaining Defendants also fail because he has failed to specifically alleged any specific action by any of the named Defendants. And Plaintiff has not cured these deficiencies in his Amended Complaint. Plaintiff's Amended Complaint (Doc. 6) is therefore stricken from the record as improper.

For the reasons stated above and as set forth in detail in the *Order and Report and Recommendation*, this Court finds that Plaintiff's objections are without merit and are hereby **OVERRULED**.

The *Order and Report and Recommendation*, Document 4, is **ADOPTED** and **AFFIRMED**. Plaintiff's Complaint is hereby **DISMISSED**.

The Clerk shall remove Document 4 from the Court's pending motions list. The Clerk shall terminate this case.

IT IS SO ORDERED.

/s/ George C. Smith
GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT